

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

JACOB EARL MURPHY,

Plaintiff,

v.

LORIE DAVIS-DIRECTOR TDCJ-CID,

Defendant.

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CIVIL ACTION NO. 5:20-CV-00089-RWS

ORDER

Plaintiff Jacob Murphy, proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge.

Plaintiff complains he is being illegally held in custody. The Magistrate Judge issued a Report recommending the lawsuit be dismissed without prejudice for failure to state a claim, noting that Plaintiff cannot challenge the validity of his confinement through a civil rights lawsuit and cannot obtain monetary or injunctive relief relating to a conviction until this conviction has been overturned, set aside, or otherwise expunged. Docket No. 5. Plaintiff has filed a separate habeas corpus petition challenging his confinement, which petition was dismissed for failure to exhaust state remedies and is currently on appeal.

A copy of this Report was sent to Plaintiff at his last known address on January 28, 2021, but no objections have been received. Because no objections have been received, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and

legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

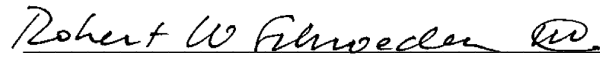
Nonetheless, the Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted. This dismissal shall not prevent Plaintiff from challenging the legality of his confinement through any lawful means, nor from seeking damages or injunctive relief in the event his conviction is overturned, set aside, or otherwise expunged. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED-AS-MOOT**.

SIGNED this 3rd day of March, 2021.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE